

# **WISCONSIN LEGISLATIVE COUNCIL STAFF**

## ***RULES CLEARINGHOUSE***

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## **CLEARINGHOUSE RULE 94-221**

### **Comments**

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### **1. Statutory Authority**

Section DI 2.01 (6) states that an applicant must provide all pertinent information relating to “...any traffic offenses which did or could result in revocation or suspension of the applicant’s driver’s license.” There is nothing in 1993 Wisconsin Act 443 which requires that this information be provided by an applicant nor do such traffic offenses in general substantially relate to the practice of dietetics so as to come within the exception to the Fair Employment Law set forth in s. 111.335, Stats. What is the purpose of this language and what statutory or session law provides the authority for the board to require that this information be provided? [Also, the phrase “pertinent information relating to” should be reviewed and should be replaced by appropriate phrasing from s. 111.335, Stats., regarding a charge that substantially relates to circumstances of a particular job or licensed activity.] The same comments apply to ss. DI 2.02 (3), 2.03 (2) and 2.04 (5).

#### **2. Form, Style and Placement in Administrative Code**

a. In s. DI 1.02 (2), substitute “under subch. IV of ch. 448, Stats.” for “under ch. 448, Subch. IV, Stats.”.

b. In s. DI 2.01 (intro.), “Every” should be “An.” In sub. (2), the cite should be to s. 440.05 (1), Stats. In sub. (3) (a), the phrase “program at a college or university that is regionally accredited” should be replaced by the defined term in s. DI 1.02 (6), “regionally accredited college or university.” This change should be made throughout Clearinghouse Rule 94-221 or, in

the alternative, the defined term in s. DI 1.02 should be “program at a college or university that is regionally accredited.” In sub. (3) (b), first sentence, “sub. (3) (a)” should be “par. (a).” In the fourth sentence, “must” should be “shall.”

c. In s. DI 2.02 (2) (a), substitute “the applicant” for “an individual” and substitute “he or she” for “the individual.” Also, the phrase “as defined in s. DI 1.02 (4)” is unnecessary and may be deleted. In par. (b), substitute “the applicant” for “an individual” and substitute “has passed” for “passes.”

d. In s. DI 2.03 (1), the last part of this provision should read “and a completed application form, signed by the applicant, on or before July 31, 1996.”

e. In s. DI 2.04 (1) (a) 2, first sentence, “sub. (3) (a)” should be “par. (a).” Beginning with sub. (2), this section should be renumbered as follows:

(b) Provides evidence satisfactory to the board that he or she has completed at least 900...

1. A certified dietitian.
2. A registered...
3. An individual...
  - a. A program at a college...
  - b. A program at a college...under par. (a) 1.

(c) Submits an application...

(d) Submits evidence...

1. A certified dietitian.
2. A registered...
3. An individual...
  - a. A program at a college...
  - b. A program at a college...under par. (a) 1.

(2) All pertinent information...

(3) A temporary certificate granted...by the board.

Finally, in sub. (4) (intro.), which is renumbered as sub. (1) (d) (intro.), above, substitute “will” for “shall.”

f. Section DI 3.01 (2) seems incomplete because the term “may” is used. Should the phrase “or set the passing test score itself” be inserted after “provider” with an appropriate passing score? If not, “may” should be “shall.” If the board sets a passing score, the standard should be promulgated as an administrative rule.

g. In s. DI 3.02 (1) (c), who are “the proctors.” This term should be clarified. In par. (d), insert “at examination reviews” after “permitted” and insert “examination” before “area.”

h. In s. DI 5.01 (intro.), substitute “under subch. IV of ch. 448, Stats.,” for “under ch. 448, Stats., subch. IV,”. In sub. (2), the phrase “under the credential” should be replaced by a phrase referring to a certificate or certification. [See, also, sub. (9).] In sub. (13), the phrase “which are not obvious” makes this a vague standard at best and should either be deleted or clarified. In sub. (17), delete “or term.” In sub. (24), does the second clause (i.e., “or refusing to divulge...”) refer to the “secret means, method, device or instrumentality” language in the first clause. If not, this second clause should be made a separate standard. Also, the term “secret means” is vague. Can clearer language be used? In sub. (26), substitute “in any case in which” for “in cases where.” In sub. (27), what if the controlled substances violation has nothing to do with the dietitian’s practice? Why should that be “unprofessional conduct” when other crimes are unprofessional conduct only if the circumstances of the crimes “substantially relate to practice under any license”? Also, insert “under subch. IV of ch. 448, Stats.” after “any license.” Finally, the term “license” should be replaced by a reference to a certificate or certification.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

Sections DI 3.02 (2) and DI 4.01 (1) refer to forms provided or prescribed by the board. As in the case of other provisions in chs. DI 1 to 5, notes should be included in ss. DI 3.02 and 4.01 indicating where applicable forms may be obtained. [See s. 227.14 (3), Stats. Also, in s. DI 3.02 (2), the reference to a reexamination fee should include a citation to s. 440.06, Stats.]